



**BOARD OF APPEALS**  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Robert De Vries

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

### **TOWN OF BROOKLINE ZONING BOARD OF APPEALS PUBLIC HEARING**

**MAY 6, 2010**

### **MINUTES**

At 7:15 P.M. the public hearing of the Zoning Board of Appeals was called to order by Chair Enid Starr. Zoning Board of Appeals members present were Chair Enid Starr, Jonathan Book and Lisa Serafin. In addition to the Board, also present were Planner Courtney Synowiec, for the Department of Planning and Community Development, representing the Planning Board, Building Commissioner Michael Shepard, for the Building Department and Town Clerk Patrick J. Ward, as Secretary. The Chair reviewed the procedures for this hearing and noted that the proceedings of this hearing will be audio-taped. Chair Starr asked the attorney for the petitioner, Jacob Walters, if he would waive the reading of the notice of this hearing. Attorney Walters so waived the reading.

#### **BOA#2010-000452 – 33 Fairmount Street**

This is a petition of Mark Pener and Katie Bacon to construct a 4' x 16'6" two story addition to the rear center of 33 Fairmount Street. Representing the petitioners is Attorney Jacob Walters, whose professional address is Goldenberg, Walters & Popkewitz, 7 Harvard Street, Brookline, Massachusetts. Attorney Walters stated that the proposal is a 336 square foot addition, consisting of two floors, at the rear of 33 Fairmount Street. He added that it will provide his clients with a larger kitchen, a study and a bay window. Attorney Walters stated the relief sought is under four special permits. The first special permit is under Section 5.09.2.j – Design Review. Attorney Walters stated that the Planning Board has approved the design, finding no issues with the plans. He added that they are using historically appropriate materials with no

environmental impact or little or no impact at all. He noted that it is a small lot located in a neighborhood with much larger lots. Attorney Walters stated the second special permit is under Section 5.22.c.3 – Floor Area Ratio. Attorney Walters noted that the Zoning Board of Appeals may allow by special permit an exterior addition up to 150% of the permitted gross floor area provided the addition does not exceed 350 square feet. He noted that the addition is 336 square feet and does not exceed the 150%. The third special permit is under Section 5.43 – Dimensional Requirements. Attorney Walters stated that under this section the Zoning Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. He noted that the applicant is proposing new landscaping in the side and rear areas and is making improvements to the side patio, driveway and entry areas. He added that his clients have agreed to re-gravel the driveway of their neighbor most affected by this construction. Attorney Walters stated that the final special permit that is required under Section 8.02.1.a and Section 8.02.2 - Alteration or Extension. He noted that since they are altering a pre-existing non-conforming structure a special permit is required. Attorney Walters stated that the addition is small, attractive and fits well into the neighborhood.

Zoning Board of Appeals Chair Enid Starr stated that she had received, for the record, an email in support of the application from Maria Gerrity, of 54 Fairmount Street. Chair Starr asked Attorney Walters if the immediate neighbors were in support or in opposition to the application. Attorney Walters stated that the abutters on either side of his clients are in support of the application, as well as others in the area. Attorney Walters stated that he was not aware of any objections.

Attorney Walters stated that this proposal meets the required conditions for approval under Section 9.05 He stated that the site is an appropriate location, that the use will not adversely affect the neighborhood, that there will be no nuisance to pedestrians or motor vehicles, and that the proposed addition is adequate and appropriate for its use.

Zoning Board of Appeals Member Jonathan Book asked Attorney Walters, in reference to re-grading the neighbor's driveway, if direct access from the was street being eliminated. Attorney Walters stated no. He noted that the neighbor's driveway is easier to access the rear for the workmen and that is the reason why his clients have agreed to re-gravel their driveway.

Zoning Board of Appeals Member Jonathan Book asked Attorney Walters about the parking as indicated on the landscape Plan. Attorney Walters stated that the driveway will be extended further up from the street, making it an amenity.

Zoning Board of Appeals Chair Enid Starr asked if there was anyone present who wished to speak in favor of this application. There were none.

Zoning Board of Appeals Chair Enid Starr asked if there was anyone present who wished to speak in opposition to this application. There were none.

Building Commissioner Michael Shepard, for the Building Department, stated that the proposal is entirely appropriate for the neighborhood. He stated that the Building

Department has no objections to the proposal and is entirely supportive of the project with the recommended conditions.

Planner Courtney Synowiec, for the Department of Planning and Community Development, representing the Planning Board, stated that the Planning Board was very supportive of the proposal and they unanimously agreed that it was attractive. Ms. Synowiec stated that the Planning Board recommends approval of the plans by Lynn Osbourn, dated 2/20/2010 and 4/28/10, subject to the following conditions:

1. **Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all materials subject to the review and approval of the Assistant Director of Regulatory Planning.**
2. **Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.**
3. **Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Zoning Board of Appeals Member Jonathan Book stated that the proposal seems appropriate and he supports the relief requested since he believes it meets the requirements of issuing special permits under Section 9.05

Zoning Board of Appeals Member Lisa Serafin stated that she agrees with Board member Book because the changes seem appropriate and is consistent with the neighborhood.

Zoning Board of Appeals Chair Enid Starr that she supports the proposal.

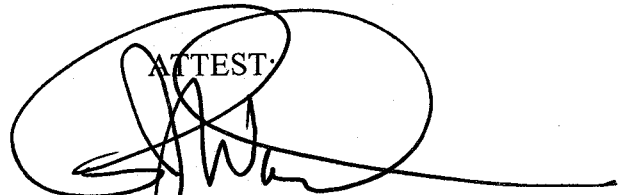
Upon motion made and duly seconded, it was UNANIMOUSLY

VOTED: To approve the special permits, for 33 Fairmount Street, Board of Appeals Case #2010-000452, subject to the following conditions:

1. **Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all materials subject to the review and approval of the Assistant Director of Regulatory Planning.**

2. **Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.**
3. **Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The public hearing was adjourned at 7:26 P.M.

ATTEST:  
  
Patrick J. Ward  
Secretary